

JUDGMENT OF ACQUITTAL — Renewed Motions (After Jury Verdict)....

Revised 3/2010

A defendant who moved for a judgment of acquittal before the verdict may renew that motion "within 10 days after the verdict was returned." Rule 20(b), Ariz. R. Crim. P. There is no authority for the court, on its own motion, to enter a judgment of acquittal after a jury verdict. The court's authority in post-verdict proceedings is strictly limited by the Rules of Criminal Procedure. *State ex rel. Hyder v. Superior Court In and For Maricopa County*, 124 Ariz. 560, 561, 606 P.2d 411, 412 (1980).

If the trial court denied the defendant's original motion for directed verdict, the trial court may only consider a post-verdict motion for acquittal if the court is satisfied that it erred previously in considering improper evidence. *State v. Cannon*, 192 Ariz. 236, 238, 963 P.2d 315, 317 (App. 1998); *State v. Villarreal*, 136 Ariz. 485, 487, 666 P.2d 1094, 1096 (App. 1983). In *State ex rel. Hyder v. Superior Court In and For Maricopa County*, 128 Ariz. 216, 224, 624 P.2d 1264, 1272 (1981), the Arizona Supreme Court held that the trial court abused its discretion when the court gave no reasons for its finding of "no substantial evidence" in granting a post-verdict motion for judgment of acquittal:

At this point the judge may only redetermine the quantum of evidence if he is satisfied that he erred previously in considering improper evidence. To find that the evidence was sufficient before the jury got the case, but not after, can be justified only on the basis of a mistake of law on the part of the court and not fact on the part of the jury. If after verdict of guilt the trial judge grants a motion for acquittal but does not specify in his order the legal basis for his finding "no substantial evidence to warrant a conviction," 17 A.R.S. Rules of Criminal Procedure, Rule 20, we must assume on review that he has disagreed with the jury's fact-finding and is not now raising some previously undisclosed legal, rather than factual, deficiency. Absent a change in position on prior evidentiary rulings by the trial judge, this is not proper.